

**General Assembly**Distr.: General
5 June 2014

Original: English

Human Rights Council

Twenty-sixth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Report of the Special Rapporteur on trafficking in
persons, especially women and children, Joy Ngozi Ezeilo**

Addendum

Mission to Seychelles^{***}*Summary*

In the present report, the Special Rapporteur highlights the efforts of the Government in combating trafficking in children, including through the ratification of international and regional instruments and the adoption of a multisectoral approach to combating trafficking in persons. The Special Rapporteur expresses concerns with regard to, inter alia, the absence of legal and policy frameworks as well as of targeted policies and institutions to prevent and combat trafficking in persons. She also notes the lack of comprehensive support for victims of trafficking, such as the unavailability of shelters, psychosocial support and appropriate holding facilities for irregular migrants, as well as fast-track deportation procedures which do not allow for identification of victims of trafficking and traffickers. There is also an apparent lack of capacity regarding all stakeholders, including front-line officials, law enforcement agents and civil society organizations, as well as a lack of awareness on the part of the general population with regard to the issue of trafficking. As a result, the potential scale of the problem of trafficking in persons, its trends and scope appear to be somewhat underestimated and unknown in the absence of statistical information on trafficking in persons. She makes recommendations to the Government, including on addressing gaps in the anti-trafficking legislative, policy and institutional frameworks; improving the justice system; putting in place a comprehensive data collection system on trafficked

^{*} Late submission.^{**} The summary of the present report is circulated in all the official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission only.

persons; increasing capacity-building activities for stakeholders involved in addressing trafficking issues; and addressing the root causes of trafficking, including through international, regional and bilateral agreements.

Annex

[English only]

**Report of the Special Rapporteur on trafficking in persons,
especially women and children, Joy Ngozi Ezeilo, on her
mission to Seychelles (27–31 January 2014)**

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–4	4
II. Main findings.....	5–59	4
A. Forms and manifestations of trafficking in persons.....	5–15	4
B. Legal, policy and institutional frameworks for combating trafficking in persons.....	16–33	7
C. Identification of trafficked persons.....	34–39	11
D. Protection of trafficked persons.....	40–44	12
E. Investigation, prosecution and punishment	45–47	13
F. Redress for victims of trafficking	48–50	14
G. Repatriation and reintegration	51–52	14
H. Prevention.....	53–56	15
I. Cooperation and partnership.....	57–59	15
III. Conclusions and recommendations.....	60–73	16
A. Conclusions	60–65	16
B. Recommendations	66–73	17

I. Introduction

1. From 27 to 31 January 2014, the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, conducted an official visit to Seychelles at the invitation of the Government.

2. During her visit to Mahe, the Special Rapporteur met with government official, including the Minister for Labour and Human Resource Development; the Minister of Community Development, Social Affairs and Sports; the Minister for Tourism and Culture; the Minister for Health and the Minister for Home Affairs and Transport. She also held meetings with the Principal Secretaries of the Ministry of Foreign Affairs, the Department of Social Affairs and the Immigration and Civil Status Department; members of the National Assembly; the Ambassador for Women and Children; the Chief Justice of the Supreme Court; the Attorney General and the Commissioner of Police. She further engaged with the Chairperson of the National Human Rights Commission and members of the National Committee on Trafficking in Persons. She also interacted with members of civil society organizations and the media. In addition, she visited the President's Village Children's Home, a temporary guesthouse for irregular migrants, the migrant holding area at the Central Police Station and the Indian Ocean Tuna factory. Finally, she exchanged views with representatives of the United Nations Agencies as well as the British and Indian High Commissioners for Seychelles. The Special Rapporteur regrets that she could not meet with any victims of trafficking as none were identified either by the Government or civil society organizations.

3. The objectives of the visit were to explore the incidence, trends and root causes of trafficking in persons, especially women and children, in Seychelles and to examine the initiatives and measures taken by the Government and civil society to combat and prevent this phenomenon, in the light of existing international law.

4. The Special Rapporteur expresses her sincere appreciation to the Government, and in particular the Ministry of Foreign Affairs, for the indispensable support it provided in planning and coordinating the visit. She thanks James Alix Michel, President of the Republic of Seychelles, for engaging in person with her on this issue, which she sees as a strong demonstration of his political will to address the phenomenon of trafficking in persons and ensure that it does not take root in the country. She further thanks the civil society organizations and the United Nations (in particular, the United Nations Development Programme (UNDP); the World Health Organisation (WHO); the United Nations Office on Drugs and Crime (UNODC) – Southern Africa; the International Organization for Migration (IOM) – Mauritius Office; the Office of the High Commissioner for Human Rights (OHCHR) – Regional Office for Southern Africa; as well as the Regional Anti-Piracy Prosecutions Intelligence Coordination Center (RAPPICC) for their assistance and support before, during and after the mission.

II. Main findings

A. Forms and manifestations of trafficking in persons

5. As a result of its geographical location, tourism attractions, the relatively small size of its population and its middle income economic development, Seychelles has a large population of both tourists and migrant workers. In 2012, the estimated number of tourists

was 208,000, almost three times the size of its population,¹ while foreign migrant workers constituted about 20 per cent of its population.

6. The phenomenon of trafficking in persons in Seychelles is at best insidious and remains hidden as a result of lack of awareness. Notwithstanding, the Special Rapporteur noted considerable anecdotal evidence suggesting that trafficking in persons occurs in Seychelles. Available information indicates that the country may increasingly become a destination for trafficking for sexual exploitation, especially of women from Eastern Europe. Furthermore, allegations of cases of sexual exploitation of Seychellois girls by both their boyfriends/pimps and families emerged. Cases of mixed migration and trafficking for the purpose of labour exploitation reportedly involving migrant workers in the construction and fishery sectors from Bangladesh, China, India, Kenya, Madagascar, Sri Lanka and the Philippines were also identified. Moreover, a growing use of migrant domestic workers, with possible indications of links to domestic servitude, especially from Madagascar, Mauritius, Nepal, Philippines and Sri Lanka, emerged as an issue during the visit. There were also reports of possible trafficking into fishing vessels following the case of nine Pakistanis found abandoned in a port in Victoria and assisted by a local civil society organization.

7. Root causes of trafficking include poverty and lack of economic opportunities in source countries. The high demand for unskilled labour in the construction and fishery sectors based in Seychelles, as well as demand for cheap domestic work from middle/high-income households in Seychelles, also fuel trafficking in persons. It should be noted that Seychellois nationals are reluctant to take up low-paying work, leaving the aforementioned sectors in need of a foreign workforce. Moreover, the flourishing tourism industry and the demand for commercial sexual services by nationals, tourists and the large population of male migrant workers are some of the underlying factors contributing to trafficking in women and children for sexual exploitation. The growing prevalence of drug and substance dependence also fuel Seychellois children's vulnerability to in-country sex trafficking.

8. In the almost complete absence of accurate data on trafficking in persons from both the State and civil society organizations, the Special Rapporteur found it difficult to assess the exact scope and magnitude of trafficking in persons, especially women and children. The lack of legal and institutional protection frameworks for victims of trafficking reinforces the invisibility of the problem and thus the extent, trends and manifestations thereof are unknown.

1. Trafficking of girls and women for sexual exploitation and prostitution

9. Information received during the visit suggests that Seychelles may increasingly become a destination country for foreign women subjected to sex trafficking. Women from Eastern Europe, particularly Ukraine, are reportedly recruited to Seychelles with promises of modelling jobs and subsequently subjected to high-class forced prostitution in private homes and hotels. The Special Rapporteur also learned that, upon their arrival at the airport as tourists, these women are reportedly escorted as very important persons (VIPs), directly bypassing immigration control. A 2011 government study also identified a group of Russian prostitutes based in Dubai who operate in Seychelles, especially when American navy ships arrive in Victoria port.² There are risks that these women may have been trafficked to Seychelles for the purpose of commercial sexual exploitation.

¹ National Bureau of Statistics, "Seychelles in figures" (Victoria, Mahe, 2013).

² Department of Social Affairs, "Prostitution in Seychelles: An Assessment of the Situation", (Victoria, Mahe, 2011), p. 31.

10. Available information also point toward to internal trafficking of Seychellois children for sexual purposes. According to official sources, cases of forced prostitution of Seychellois girls, including minors, by their boyfriends/pimps who control their earnings are not uncommon.³ Drug and substance dependency of both the girls and their pimps are identified as the leading cause of such types of sexual exploitation.

11. Further information indicates the possible forced high-class prostitution of Seychellois girls and, according to some sources, boys – particularly on the main island of Mahe – by foreign clients. Foreign clients were identified as male or female visitors/tourists or locally employed foreign men; while girls aged 16 and onwards are most at risk, girls as young as 14 years of age were reportedly forcibly prostituted.⁴ Moreover, a considerable number of mothers push their own children, both female and male, into forced prostitution in order to financially sustain the family.⁵

12. The prevalence of substance abuse, poverty, and the continuing demand for commercial sexual services by nationals, tourists and migrant workers are some of the underlying factors that contribute to the sexual exploitation of trafficked women and children in Seychelles.

2. Trafficking for labour exploitation

13. Seychelles has a large population of migrant workers, a large portion of whom are unskilled and semi-skilled. According to official statistics, the vast majority of the migrant workers, who constitute about one fifth of the population of the country, are employed in the manufacturing (mainly fishery) and construction sectors, comprising nearly one third of the total workforce.⁶ The Special Rapporteur notes with concern that a significant portion of migrants work within the Seychelles International Trade Zone (SITZ) where the national Labour Law – the Employment Act 1995, which protects workers' rights – is inapplicable. However, the International Trade Zone (Employment) Regulations 1997 and the International Trade Zone (Conditions of Employment) Order 1997, are applicable and, as posited by the Government, do not make the workers any more vulnerable to situations of forced labour than workers who work outside of the SITZ. The Special Rapporteur was informed of several cases of unskilled and semi-skilled migrant workers, especially from Bangladesh, China and India, reportedly facing exploitation, including poor working conditions, underpayment and late payment of wages, substandard housing and withholding of passports – possible indicators of forced labour. Over the past two years, a number of public demonstrations held by groups of migrant workers to peacefully protest about their working conditions have resulted in their deportation. There were also allegations of two suicides of migrant workers, which were attributed to work-related frustrations. The Special Rapporteur noted that the Employment and other related acts apply to both Seychellois and foreigners. In this regard she also welcomes the increase in wage as of January 2014 to all workers, including migrants. However, cumbersome procedures and penalties for going on strike,⁷ which include prosecution, payment of a fine ranging from Sr 5,000 to Sr 10,000 and deportation, dissuade migrant workers from exercising their rights to strike.

14. In addition, the Special Rapporteur received information from non-governmental sources that fishermen on board Asian fishing boats in Seychelles territorial waters or ports have reportedly been subjected to abuse, including, but not limited to, denial of payment,

³ Ibid. p. 45.

⁴ Ibid., pp. 31 and 8.

⁵ Ibid., p. 8, and pp. 42–43.

⁶ See footnote 1.

⁷ Industrial Relations Act 17 of 1994, sects. 52 to 58.

physical abuse and being left abandoned in ports. A case in point involves nine Pakistani fishermen allegedly abandoned in a port in Victoria for nine months. According to information provided, the fishermen had not received wages for an entire year's work on board the Asian fishing vessel.

3. Domestic servitude

15. From January to August 2013, the Immigration Division issued Gainful Occupational Permits to 40 foreign domestic workers in Seychelles employed as carers, live-in nannies and housemaids, *inter alia*.⁸ Of these, 80 per cent were female. While not all domestic workers are victims of trafficking, the Special Rapporteur received information indicating possible trafficking for the purpose of domestic servitude. Increasing evidence suggests that young women from Madagascar, Mauritius, Nepal, Philippines and Sri Lanka, most of whom are single mothers from rural areas and with limited education, are brought into Seychelles and deceived into working long hours, with little or no pay and with restricted freedom of movement. A case in point involves a Mauritian victim of domestic servitude identified by a health worker who realized that her passport had been withheld by her employer and that she had not received payment for her work.

B. Legal, policy and institutional frameworks for combating trafficking in persons

1. Legal framework

16. At the international level, Seychelles has been a party to the United Nations Convention against Transnational Organized Crime since 2004 and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing it (Palermo Protocol) since 2010. Moreover, it has ratified all of the core human rights instruments, a number of which have particular relevance to combating trafficking, including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, including its Optional Protocol on the sale of children, child prostitution and child pornography; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Seychelles has yet to ratify International Labour Organization Convention No. 189 (2011) concerning decent work for domestic workers.

17. At the regional level, Seychelles is a party to the African Charter on Human and Peoples' Rights, its Protocol on the Rights of Women in Africa, the African Charter on the Rights and Welfare of the Child and the Southern African Development Community Gender and Development Protocol.

18. At the national level, Seychelles does not yet have specific legislation dealing with trafficking in persons. The Government had identified this shortcoming, and at the time of the visit of the Special Rapporteur had plans to draft an anti-trafficking Act. In the meantime, some relevant legislation may be invoked to prosecute offences that could amount to trafficking in persons and other forms of exploitation.

19. Chapter XV of the Penal Code on Offences against Morality defines and punishes sexual assault with 20 years' imprisonment (sect. 130). Abduction of women for the purpose of sexual act and sexual interference with a child below the age of 15 carry terms

⁸ Ministry of Labour and Human Resource Development, Statistics for trafficking in persons delegation (January 2014), table 3.1.

of 7 and 20 years' imprisonment respectively.⁹ The procurement or attempt to procure women under the age of 21 years for forced prostitution in Seychelles or outside the country, and the detention of a woman or a girl for forced prostitution are prohibited.¹⁰ Soliciting in public places; keeping or renting premises for use as a brothel; and living off the earnings of prostitution are offences punishable with 2 to 5 years imprisonment.¹¹ Moreover, foreign prostitutes or any person who lives on the earnings of prostitution or has procured another person for immoral purposes are systematically categorized as prohibited immigrants liable to expulsion.¹² However, there is no exemption in this or any other law to protect potential victims of trafficking who may have been forced into prostitution from being deported, possibly back into the hands of their traffickers, for practising prostitution.

20. The Constitution provides for freedom from slavery.¹³ Penalties for offences against liberty provided for in the Penal Code cover kidnapping and abduction with intent to confine a person; or in order to subject a person to slavery; and kidnapping of a child under the age of 14 years, which carry penalties of 7, 14 and 10 years' imprisonment respectively.¹⁴ The buying or disposing of any person as a slave carries a 10-year imprisonment while the habitual dealing in slaves is punished with 14 years' imprisonment.¹⁵

21. In addition, forced or obligatory labour is prohibited in the Constitution.¹⁶ It is also prohibited in the Penal Code, which prescribes three years' imprisonment for unlawful compulsory labour (sect. 251). Minimum labour protection standards, including working hours, paid leave and regular payment of wages are set out in the Employment Act, which governs the relationship between workers and their employers. With regard to migrant workers, the Employment Act 1995 extends its scope to non-Seychellois workers and contains provisions that prohibit labour exploitation.¹⁷ However, as previously noted, this national labour law is limited in its application and migrant workers in the International Trade Zone are excluded from its jurisdiction. Notwithstanding, the International Trade Zone (Employment) Regulations, 1997 and the International Trade Zone (Conditions of Employment) Order, 1997, regulate the process of recruitment of workers and their conditions of service, including for Non-Seychellois workers within the Seychelles International Trade Zone.¹⁸

22. With regard to children, the Constitution, under section 31, sets the minimum age for work at 15 and stipulates a higher minimum age for dangerous, harmful, and unhealthy occupations. Furthermore, it ensures "special protection against social and economic exploitation as well as physical and moral dangers to which children and young persons are exposed to." The Conditions of Employment Regulations, 1991, prohibit children under the age of 18 from night employment and from employment in the restaurant, tourism or entertainment industries. Exceptionally, children aged 15 to 17 may work in these industries and at night with the written approval of a competent officer. Exploitative acts often committed in the process of trafficking, such as using or employing a child in a way that may be physically or mentally harmful to the child or affect the child's growth or

⁹ Penal Code, sects. 133 and 135.

¹⁰ Penal Code, sects. 138 and 141.

¹¹ Penal Code, sects. 154, 155 and 156.

¹² Immigration Act of 1995, sects. 19 and 20.

¹³ Constitution, sect. 17 (1) and (2).

¹⁴ Penal Code, sects. 244, 245 and 247.

¹⁵ Penal Code, sects. 249 and 250.

¹⁶ Constitution, sects. 17 (1) and (2).

¹⁷ Employment Act 1995, sect. 67.

¹⁸ See regulation 41 of the International Trade Zone (Employment) Regulations, 1997.

development are prohibited under the Children Act (1998). The Act specifically contains provisions preventing children from being taken out of Seychelles for immoral purposes as defined in section XV of the Penal code.¹⁹

23. Other legislation that could contribute to combatting trafficking in persons include the Protection of Human Rights Act, 2009, which promotes witness protection; the Proceeds of Crime Act, 2008 (civil confiscation), which applies to confiscation of property acquired from criminal conduct; and the Evidence Act, 2009, which allows hearings in camera to protect child victims of sexual violence. However, a big gap is the lack of witness, victim and whistle-blower protection in the criminal justice system as a whole. The Special Rapporteur notes the need for the draft anti-trafficking legislation to extend such protection to witnesses, whistle-blowers and victims of trafficking before, during and after trial to protect them from reprisal attacks, stigmatization and embarrassment.

24. The Special Rapporteur is concerned at the absence of an adequate legal framework to prevent and combat trafficking in persons in conformity with the Palermo Protocol, especially within the definition of article 3. Consequently, trafficking in persons is not a specific offence, which makes it difficult to prosecute, particularly in cases of cross-border trafficking, and punish traffickers. She recalls that articles 5 and 2 of the Palermo Protocol require ratifying States Parties to take legislative steps to criminalize trafficking; protect the human rights of victims and to prevent and combat trafficking in persons. Moreover, by focusing exclusively on some aspects related to trafficking for sexual and labour exploitations, the existing legislation excludes other forms of exploitation including trafficking for the purpose of domestic servitude and removal of organs.

2. Policy framework

25. At the time of the visit, the Special Rapporteur was informed that Seychelles was working towards the establishment of a national strategic framework and action plan to combat trafficking in persons (2014–2015). Under this national plan, the country envisages the revision of its legal framework on trafficking; the prosecution of perpetrators and improvement of access to justice for all trafficked persons; and the improvement of access to protection and assistance mechanisms in line with international standards in cooperation with relevant national stakeholders. It further plans to build the capacity of all stakeholders for the effective prevention and prosecution of cases of trafficking in persons and protection of victims; the raising of awareness/sensitization of the population at large on trafficking in persons; and the strengthening of international cooperation with regard to investigation and prosecution of the crime of trafficking in persons.²⁰

26. The Special Rapporteur notes with appreciation the involvement of relevant government offices, civil society organizations and the United Nations in the preliminary stages of drafting, through consultative meetings held around the draft action plan.

3. Institutional framework

27. At the time of the Special Rapporteur's visit, Seychelles had an interministerial committee on trafficking with a specific mandate to oversee the development and drafting of legislation on trafficking in persons, a national action plan, and capacity-building activities for stakeholders. The committee was established in 2012 by the Cabinet of Ministers for a two-year term and is co-chaired by the Ministry of Foreign Affairs and the Ministry of Social Affairs, and includes representatives from Immigration, Customs, the

¹⁹ Children Act of 1998, sect. 27.

²⁰ Draft national anti-trafficking action plan, p. 8.

Police, Employment Department, the Ministry of Social Affairs, Community Development and Sports, Health, the Attorney General's Office, the Financial Intelligence Unit, the National Bureau of Statistics, the Judiciary, National Commissions/Councils, the Seychelles National Youth Council, the Media Commission, the National Human Rights Commission, the Public Officers' Ethics Commission, the Drug and Alcohol Council and civil society organizations.

28. The Special Rapporteur appreciates the Government's efforts in adopting a multisectoral approach to address the phenomenon of trafficking in persons as well as the support provided by partners such as UNODC and IOM; however she notes the evident lack of human and financial capacities, thus hindering the committee in achieving the desired impact in the two years of its existence. She was also pleased to learn that the appointment of a new committee on trafficking is envisaged in the draft anti-trafficking bill. The broader mandate of this mechanism is expected to include provisions for guiding the Government on strategies and policies to tackle human trafficking, putting in place effective legislation, awareness-raising and capacity-building for stakeholders.

29. While not directly working on anti-trafficking issues, the Department of Social Affairs under the Ministry of Social Affairs, Community Development and Sports aims, *inter alia*, to restore social functioning and alleviate social problems by safeguarding the interest and promoting the well-being of children as well as integrating and protecting marginalized and vulnerable groups. It consists of three sections: (a) Legal Services and Child Protection; (b) Community Social Work; and (c) Probation Services.²¹ The Child Protection Unit coordinates and, in collaboration with the Family Squad of the Seychelles Police and other partners, investigates, all child abuse cases, including those involving sexual, physical, and emotional abuse. It also provides counselling services for abused children and their families.²² Social workers from the Community Social Work Section deal with cases of domestic violence, substance abuse, mental health, placement, anti-social behaviour, teenage pregnancy and neglect. Cases are identified through their regular visits to schools, health centres and police stations as well as the Department's 24-hour children's helpline.²³ The majority of victims are identified by clients who walk in at headquarters or at the district administration offices where the social workers are based. However, the Special Rapporteur was informed that no cases of trafficking in persons have ever been identified.

30. The Labour Relations Division within the Ministry of Labour and Human Resource Development promotes and maintains industrial peace and stability by providing a legal framework to balance the interests of employers and workers.²⁴ It investigates claims and complaints relating to salary matters, unfair termination, redundancy and other terms and conditions of employment in respect of all workers other than domestic workers, military personnel, and civil servants. The Labour Monitoring and Compliance Section conducts labour inspections. The Special Rapporteur was informed that, in the 1,136 labour inspections conducted in 2012, no case of labour exploitation was uncovered in any sector. The Employment Services Bureau under the Ministry monitors the activities of licensed employment agencies, which are themselves regulated by law.²⁵

²¹ Convention on the Elimination of All Forms of Discrimination against Women, Seychelles combined initial, second, third, fourth and fifth periodic reports, 12 October 2011 (CEDAW/C/SYC/1-5), para. 132.

²² *Ibid.*, para. 135.

²³ *Ibid.*, para. 140.

²⁴ ILO, national profile on occupational safety and health, Seychelles (2013), pp. 9–10.

²⁵ Employment Act (1995), sects. 5 to 18.

31. Moreover, within the Seychelles Police, the Family Squad investigates crimes related to child abuse; the Special Tourism Team investigates suspicious transactions and anti-social behaviours involving tourists and residents on the beach and the INTERPOL National Central Bureau assists local police forces in investigations requiring international outreach. The newly established Financial Intelligence and Assets Recovery Unit identifies and investigates suspected assets which derive from criminal conduct.²⁶

32. The National Human Rights Commission was established on January 2009 with a mandate to ensure better protection and promotion of human rights in Seychelles.²⁷ The Commission is entitled to, *inter alia*, inquire into human rights complaints, visit places of detention and recommend action to alleviate the factors that inhibit the enjoyment of human rights.²⁸ While the Commission could potentially play an instrumental role in addressing trafficking issues, including through reviewing complaints, conducting research and engaging in awareness-raising campaigns, the Special Rapporteur is concerned that the limited human capacity and the low budget allotted to this institution would have a negative impact on its independence and activities.

33. Challenges in the Seychelles strategy to combat trafficking in persons include the absence of a specific structure with adequate human and financial capacities, as well as defined responsibilities to address the phenomenon in a coordinated manner. This impacts the provision of effective remedies to victims of trafficking.

C. Identification of trafficked persons

34. To date, no victim of trafficking has been officially identified in Seychelles in spite of reported cases of possible trafficking in persons, primarily linked with migrant workers, and the fact that tourism remains one of the country's main industries. The Government asserts that this reflects the low level of trafficking into Seychelles, citing its small size, remote location and the absence of any shared land borders as dissuasive factors. However, information received indicate that foreign women and girls identified as prohibited immigrants are reportedly detained and summarily deported directly from the airport by immigration officials on suspicion of prostitution. In most cases, there is no identification process or proper assessment as to whether they were trafficked or whether their return would be safe. It is further alleged that the police are not informed about such cases until after the potential victims have left the country. Such lack of coordination in the process of identification of potential victims between immigration and police officials is a further cause of concern.

35. The Special Rapporteur acknowledges the efforts of labour inspectors, particularly regarding migrant workers in the construction and fishing sectors. These include conducting unannounced inspections, distribution of leaflets on labour-related complaint procedures in various languages, including Chinese and Indian, as well as access for victims to the Ministry either in person or via the telephone number of the Labour Department, which serves as a *de facto* hotline during working hours. In addition, the living conditions of foreign workers are inspected by health inspectors from the Department of Health. Notwithstanding, feedback from some onsite visits conducted by the Special Rapporteur suggests that the leaflets may not have been widely distributed, as some of the

²⁶ See www.police.gov.sc/index.php?option=com_content&view=article&id=405&Itemid=170; see further www.interpol.int/Member-countries/Africa/Seychelles and Anti-money laundering (amendment) Act 18 of 2008, art. 6.

²⁷ Protection of Human Rights Act.

²⁸ Protection of Human Rights Act, sub-sect. 6 (i), (iii), and (iv).

migrant workers seemed ignorant of such labour complaints procedures and the receipt of information leaflets on the subject.

36. While no case of trafficking in persons has been officially identified, the Special Rapporteur learned about a number of complaints made, especially in the construction industry, about working and living conditions, including non-payment of salaries and retention of passports indicative of the exploitation of foreign migrant workers and possible trafficking in person. In addition, the Special Rapporteur points out that the low literacy level of some migrant workers may prevent them from reading the information provided in the leaflets, even when provided in their own language.

37. Additionally, in spite of the increasing number of foreigners engaged in domestic work, and allegations of abuse, victims of trafficking for domestic servitude have not been identified because of the hidden nature of their work; and the fact that labour inspections are not conducted in private homes. At the very least, the Special Rapporteur encourages the Immigration Division to use the yearly renewal of Gainful Occupational Permits to inquire about the working conditions of this category of workers.

38. Identification of victims is further exacerbated by the lack of a clear legal distinction between prostitution and internal trafficking for sexual purposes. In this regard, social workers at the Department of Social Affairs referred to cases whereby some Seychellois men force their girlfriends into prostitution in order to earn money for the couple's drug addiction. The Department also identified 580 cases of sexual abuse committed on children from 2009 to 2013. Unfortunately, neither these nor other similar cases have been correctly identified as trafficking in persons for the purpose of sexual exploitation. Moreover, the Special Rapporteur was informed that access to sexual health care for children under the age of 18 could only be accessed with an accompanying adult, in spite of the age for sexual consent being 15 years. This decreases the chance of identification by health-care professionals of children who may be potential victims of trafficking for sexual exploitation.

39. In view of this, the Special Rapporteur observes that the absence of identified victims may not be indicative of the true extent of the problem of trafficking in the country. For a variety of reasons, including apparent lack of capacity of frontline officers, appropriate legislation, infrastructure and services designed to facilitate the identification of victims of trafficking in persons, victims of trafficking remain unidentified or are identified as irregular immigrants and deported without further identification.

D. Protection of trafficked persons

40. Once identified as such, trafficked persons should be provided with appropriate care and assistance so that they are protected from further exploitation and harm. Regrettably, the Special Rapporteur found no infrastructure and services available to victims of trafficking in Seychelles.

1. Non-criminalization of trafficked persons

41. The trafficking cycle cannot be broken without attention to the rights of trafficked persons in a non-discriminatory manner. In this regard, the domestic legal framework does not provide victims of trafficking with specific protection from further harm or assistance to them in achieving full recovery. Nor does it confer victims of trafficking with a special status that would exempt them from prosecution for offences relating to irregular entry and stay in the Seychelles, engaging in prostitution or in employment without a work permit. Moreover, the summary/expedited deportation procedure of irregular immigrants, some of whom may potentially be victims of trafficking without access to protection, recovery or

reintegration services, might perpetuate their victimization. The lack of holding facilities for irregular migrants, who are currently and inappropriately kept in police cells or private guesthouses with no protection is also a cause for concern.

2. Shelters

42. At the time of the Special Rapporteur's visit, there were no shelters or psychosocial support specifically intended for victims of trafficking. However, the Social Affairs department acts as the regulator and guardian of all children placed in these homes, which provide welfare assistance to children in need up to 18 years who are subject to protection measures, and children in difficult situations, and assist their reintegration into society. It also runs a children's telephone hotline for victims of violence.²⁹ Three other homes for children for orphans and children in need are run by faith-based organizations. Another is under the patronage of the First Lady.

43. The Special Rapporteur visited the President's Village Children's Home, regulated by the Social Development Affairs, which had 54 children up to the age of 18 years, including infants. The centre provides a family environment for orphans and children whose parents are faced with socioeconomic difficulties. This includes educational and vocational support, medical and psychosocial services for children. The Special Rapporteur notes the overall adequate standard of the facility and services provided.

44. However, the Special Rapporteur is concerned that trafficked persons are falling through the protection gap in the absence of shelters specifically designed to accommodate and provide protection to them. The existing shelters are inadequate to accommodate trafficked persons, some of whom may be foreigners, whose circumstances and needs are different from other victims of violence or children at risk of violence. Moreover, the absence of protection services dissuades trafficking victims from seeking help and exposes them to traffickers, who can act with impunity in the knowledge that their victims have no legal recourse or effective remedies.

E. Investigation, prosecution and punishment

45. Preliminary investigation of offences against morality under the Penal Code is undertaken by members of the police, who transmit their findings to the Attorney General, who prosecutes all criminal cases in court. Moreover, the Special Rapporteur acknowledges that some safeguards have been put in place in the legal framework to protect vulnerable witnesses which include in-camera hearings for children and victims of sexual exploitation.³⁰ She notes the need for the draft anti-trafficking legislation to extend such protection to victims of trafficking before, during and after trial to save them from reprisal, attacks, stigmatization and embarrassment.

46. A number of factors hamper the effective and swift investigation of trafficking cases by the police. While there is no specific legislation on trafficking in persons, the Police Commissioner conceded that police officials often lack a comprehensive understanding of existing penal laws which could be used to deal with cases of trafficking in persons.

47. A corollary of the absence of such investigation of trafficking cases is the lack of prosecution of traffickers. It is hoped that, with the adoption of the draft anti-trafficking legislation, authorities will step up efforts to investigate and prosecute traffickers.

²⁹ See www.socialdevelopment.gov.sc.

³⁰ Evidence Act 2009, sect. 11.

F. Redress for victims of trafficking

48. According to international law and standards, States have to provide victims of trafficking with access to effective remedies.³¹ While there is no comprehensive national framework for victims' compensation in Seychelles, the Special Rapporteur notes the possibility that victims of trafficking may access compensation through separate civil court proceedings provided for in the Civil Code. They may also benefit from the Proceeds of Crime (Civil Confiscation) Act, 2008, which provides for confiscation of assets and proceeds obtained through criminal conduct. Another important means of redress, specifically for victims of labour trafficking, is the recovery of unpaid wages. While not specifically intended for victims of trafficking, the Employment Act provides for such recovery of wages.

49. While the Special Rapporteur acknowledges the necessity of compensation as an important component of effective remedies for trafficked persons, she also notes the importance of other components of effective remedies, including restitution, recovery/rehabilitation, satisfaction and guarantee of non-repetition, as well as access to information, legal assistance, and regularization of residency status,³² which are currently not available for victims of trafficking in Seychelles.

50. In certain circumstances, permanent or temporary residence in itself may be a necessary and appropriate form of remedy. This consideration is particularly pertinent in cases where irregular immigrants, who may also include trafficked persons, are immediately returned to their country of origin and thus put at serious risk of being re-trafficked to Seychelles or of severe violations of their human rights. Where such risks exist, the Special Rapporteur is of the view that trafficked persons should be provided with the opportunity to remain in Seychelles on a temporary or permanent basis, as well as with appropriate support to be effectively integrated into Seychelles society.

G. Repatriation and reintegration

51. Repatriation of victims of trafficking in persons is provided for in the Palermo Protocol.³³ At the time of the Special Rapporteur's visit, Seychelles did not have a repatriation and reintegration mechanism for identified victims of trafficking. The practice of summary deportation of irregular migrants, who might potentially include victims of trafficking, may contribute to their revictimization.

52. She was however informed that the draft national anti-trafficking plan of action provides for voluntary, safe and dignified return options for all victims of trafficking. In this regard, she hopes that the draft plan will go further and spell out procedural safeguards for the victims, such as the Government's obligations to provide for a recovery and reflection period, and alternatives to repatriation to their countries of origin, and the carrying out of risk assessments to ensure that their repatriation will not jeopardize their safety and security. Reintegration procedures for potential Seychellois victims of trafficking in persons upon their return from abroad should also be incorporated in the plan of action.

³¹ Palermo Protocol, art. 6, para. 6, and OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 9.

³² A/HRC/17/35.

³³ Palermo Protocol, art. 8.

H. Prevention

53. Trafficking in persons is a relatively new phenomenon in Seychelles. The Special Rapporteur acknowledges the Government's attempts at awareness-raising activities particularly targeting the interministerial committee. While these activities are useful, they remain at an embryonic stage and are not systematic. Moreover, they are not specifically tailored to reach out to those most at risk of trafficking, including the migrant population, which should be provided with accurate information.

54. Public awareness of trafficking in persons through the mass media is widely recognized as a key prevention strategy for raising awareness about trafficking, appropriately targeting trafficked persons, those at risk of being trafficked or otherwise exploited, their employers or workplaces. While the local media's sporadic articles have somewhat contributed to raising attention to the issue, accurate reporting on trafficking in persons remains a challenge.

55. In addition, the potential of key institutions such as the Ministries of Tourism Employment, Social Affairs and Health; law enforcement authorities, the National Human Rights Commission and civil society organizations to contribute to raising awareness about and proactively taking measures to discourage trafficking in persons does not seem to be fully exploited, as these institutions themselves remain in need of capacity-building on the issue of trafficking and the human rights dimension, including the gendered nature of human trafficking.

56. The Special Rapporteur further underscores the importance of addressing demand as a root cause in prevention strategies, which, in the context of Seychelles, includes demand for commercial sex services, drug and substance abuse, and poverty. With regard to the emerging demand for exploitative labour of foreign migrants, including domestic workers, the Special Rapporteur stresses that the protection of labour rights is essential in reducing demand for exploitative labour and in preventing exploitation from occurring in the first place. There is also a critical need to raise the awareness of employers and potential employers about the labour rights of domestic workers under international human rights law and standards.

I. Cooperation and partnership

1. Cooperation with civil society

57. The Special Rapporteur is encouraged by the existing institutionalized cooperation between the Government and civil society organizations through a memorandum of understanding aimed at, inter alia, maintaining an effective communications network, reducing duplication and maximizing the use of limited resources in areas such as health, community development and support for vulnerable groups.³⁴ Civil society organizations have taken part in the discussion and validation process of the draft national anti-trafficking plan of action. However, she notes the apparent lack of expertise on trafficking in persons as well as adequate human and financial resources in civil society organizations to address the issue. She further echoes the strong need expressed by civil society organizations for technical cooperation and assistance on capacity-building on trafficking in persons.

³⁴ Memorandum of understanding between the Government of Seychelles and Non-Governmental Organisations (NGOs) in Seychelles (available from: <http://www.civilsociety.sc/wp-content/uploads/2013/03/MoU1.pdf>), pp. 1 and 3.

2. International, regional and bilateral cooperation

58. The transnational nature of trafficking requires the participation of source, transit and destination countries in anti-trafficking work, including in the area of identification of victims, exchange of information, joint investigations and judicial cooperation. While promoting cooperation in order to address trafficking in persons is not reflected in the domestic legislation, it has been part of the political statements of the Government. At the time of the visit of the Special Rapporteur, Seychelles had no international, regional or bilateral agreements with source countries. Factors that contribute to absence of such agreements include lack of awareness of the issues related to trafficking in persons on the part of both consular officers and victims themselves; and the fact that not all source countries have representations based in Seychelles, as the Special Rapporteur learned.

59. Nevertheless, Seychelles has benefited from some technical and financial bilateral or multilateral assistance in addressing the issue of trafficking. Assistance provided includes the development of a national plan of action, reviewing existing laws, facilitation of workshops and sensitization on trafficking in persons undertaken with the support of IOM and UNODC. While not directly involved with trafficking in persons, Seychelles also cooperates with the Regional Anti-Piracy Prosecutions Intelligence Coordination Center (RAPPIC), a joint investigative body created by virtue of article 19 of the United Nations Convention on Transnational Organized Crime, for the purposes of tackling and prosecuting organized crime threats such as maritime piracy. In this regard, Seychelles has collaborated with Kenya, Tanzania, and Mauritius as well as with the Federal Bureau of Investigation (FBI) and the Naval Criminal Investigation Service (NCIS), INTERPOL, Europol, UNODC, the Indian Ocean Commission, and a wide range of European police forces.³⁵

III. Conclusions and recommendations

A. Conclusions

60. Seychelles has expressed its commitment and resolve to combat trafficking in persons, as reflected by the country's ratification of the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) as well as through the ratification of other major international and regional human rights instruments and the issuance of a standing invitation to special procedures mandate holders. The political commitment to end human trafficking clearly exists in Seychelles, as reflected in the establishment of the National Anti-Trafficking Committee. Legislative changes and policy measures to combat trafficking in persons are also envisaged by the Government through the drafting of an anti-trafficking bill and a national plan of action to combat trafficking.

61. The Special Rapporteur nonetheless remains concerned at the absence of legal and policy frameworks to prevent and combat trafficking in persons. Consequently, human trafficking is not an offence which makes it difficult to prosecute and punish traffickers. Moreover, despite existing penalties for offences against liberty and morality, there is no evidence that these have been used to identify victims of

³⁵ <http://oceansbeyondpiracy.org/matrix/regional-anti-piracy-prosecutions-intelligence-coordination-centre-rappic>.

trafficking nor that anyone has been convicted for acts relating to trafficking in persons.

62. There is also a lack of targeted policies and institutions to deal with trafficking in persons, appropriate procedures for the identification of victims of trafficking and mechanisms for data collection. Such a situation makes it impossible to conduct proper investigation and prosecution of trafficking cases.

63. Moreover, victims of trafficking are not provided with comprehensive support. The absence of shelters and psycho-social supports for victims of gender-based violence, including trafficking, perpetuates their victimization. There are no holding facilities for irregular migrants, who are currently and inappropriately kept in police cells. The speed with which prohibited migrants are deported may not allow for thorough investigations and possible identification of trafficked persons and traffickers. Labour inspections are limited by resources to effectively overseeing businesses.

64. While there have been sporadic attempts at awareness-raising for members of the Inter-Ministerial Committee, efforts to prevent and combat human trafficking remain at an embryonic stage and are not systematic. The general population, civil society and institutions for the protection of human rights remain mostly unaware and uninformed of the issue of trafficking and its human rights implications.

65. As a result, the potential scale of the problem of trafficking in persons, its trends and scope appears to be somewhat underestimated and unknown in the absence of statistical information on trafficking in persons.

B. Recommendations

66. In view of the above observations, and in a spirit of cooperation and dialogue, the Special Rapporteur offers the following recommendations.

67. With regard to the legal and policy frameworks, Seychelles should:

(a) Ensure full implementation of the Palermo Protocol, which requires Seychelles to take effective and comprehensive measures to prevent and combat trafficking in persons and accelerate the process of developing and adopting the draft anti-trafficking legislation. In particular, this legislation should clearly define and criminalize trafficking in persons offences in accordance with article 3 of the Palermo Protocol's definition and classification of trafficking crimes. It should further prescribe sufficiently stringent punishments for perpetrators as well as provide effective remedies for victims of trafficking.

(b) Extend the scope of existing labour laws to ensure adequate protection for the rights of domestic workers. Labour inspectors should be given the power and means to monitor the working conditions of domestic workers, who are often the most vulnerable to trafficking.

(c) Accelerate, in consultation with all stakeholders, the adoption of the national action plan to combat trafficking based on a human rights- and victim-centred approach, and allocate an adequate budget for its implementation.

(d) Carry out a national baseline study to collect data on trends, forms and manifestation of trafficking, its causes and consequences. This survey should be carried out in collaboration with research institution and in close cooperation with international organizations, civil society organizations and faith-based organizations.

(e) Enhanced coordination and efforts at combating trafficking would be better achieved if an office of an independent national rapporteur or an equivalent mechanism were created by law and charged with the responsibility to implement, monitor and evaluate activities aimed at combating human trafficking.

68. With regard to institutional frameworks, Seychelles should:

(a) Accelerate the establishment of the National Anti-Trafficking Committee by law as the lead agency to combat and prevent trafficking in persons. It should ensure that this body is endowed with the responsibility to coordinate, implement, monitor and evaluate activities and initiatives aimed at combating all types of human trafficking.

(b) Given the absence of reliable data on trafficking, there is an urgent need to design a mechanism for the collection of data on cases of trafficking, as well as on the forms, trends and manifestations of trafficking. Such data is vital to the development of informed policy responses to address trafficking in persons.

69. With regard to identification, training and capacity-building, Seychelles should:

(a) Put in place an adequate and well-resourced system with specific tools and protocols for identifying victims of trafficking. It is pertinent to note that accurate and swift identification of victims of trafficking is crucial to activate other actions, such as investigation and prosecution of traffickers, as well as referrals that would allow for adequate assistance and protection of victims.

(b) Provide comprehensive training programmes with support from interested partners, including donor organizations and other governments to enhance knowledge and awareness on human trafficking for all stakeholders, especially the police, the People's Defence force, immigration and border agents, prosecutors, judges and lawyers, as well as labour and health inspectors. Furthermore, it should enhance the skills of civil society organizations, including all stakeholders involved in providing assistance and care to victims of trafficking. It should also build the capacity of the media on effective reporting on trafficking in persons.

70. With regard to the support services for victims of trafficking, Seychelles should:

(a) Make greater efforts to protect and assist all victims of trafficking, with full respect for their human rights. It should create and support adequately resourced programmes and institutions to provide short- and long-term assistance to victims of trafficking.

(b) Put in place a free 24 hour confidential hotline/helpline for reporting suspected cases of trafficking and exploitation of migrant workers. This should also be accessible to foreign victims of trafficking and serviced by multilingual staff who have received specialized training on trafficking in persons.

(c) Establish a comprehensive and non-discriminatory compensation scheme for victims of trafficking at the national level, including a common fund for victims of trafficking in the event of the insolvency of the perpetrators.

(d) Maintain close cooperation with the United Nations system, especially UNODC and IOM, for the identification and the safe return of trafficked victims to their country, having due regard to the need, if any, for international protection of victims.

(e) Strengthen the National Human Rights Commission and provide funding that will enhance its effectiveness in accordance with the Paris Principles.

71. With regard to prevention, Seychelles should:

(a) Step up efforts to raise awareness about all forms of trafficking in persons, including for domestic servitude, forced labour and sexual exploitation.

(b) Launch widespread awareness-raising campaigns using media, information and communication technology, and other channels of communication that may appeal to the relevant communities in order to send a strong message and promote deeper understanding of what constitutes trafficking among the general population and the foreign community based in Seychelles. In this regard, all islands should be sensitized and efforts should not be concentrated in the capital city alone. Furthermore, efforts should be directed through the Ministry of Tourism and Culture and the tourism board to inform tourists and other stakeholders in the tourism industry about the zero tolerance policy of the Government and the international community in fighting human trafficking and sexual exploitation of children.

(c) In addition to legal and policy action to combat trafficking in persons, take concurrent measures to address the root causes of the problem, including demand for commercial sexual activities, demand for unskilled labour in the construction and fishery sectors and domestic work; as well as drug and substance dependence.

72. With regard to prosecution, Seychelles should:

(a) Increase its efforts to prosecute traffickers while guaranteeing fair trial rights consistent with a human rights-based approach to criminal justice, and establish the necessary legal framework and procedures in order to ensure that victims of trafficking and witnesses are protected.

(b) Once the anti-trafficking law is in place the Government should, through the Attorney General's Office and the Supreme Courts, build the capacity of prosecutors, State counsels and judges, focusing on a human rights-based approach to prosecution of trafficking cases, including provision of effective remedies for victims of trafficking. In this regard, technical assistance may be sought from relevant United Nations agencies and States.

73. With regard to the international, regional and bilateral frameworks, Seychelles should:

(a) Ratify without delay ILO Convention No. 189 (2011) concerning decent work for domestic workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other relevant ILO Conventions against forced labour and exploitation.

(b) Strengthen partnerships with source countries in the region and cooperation, including through international, regional and bilateral agreements, in order to facilitate swift and coordinated responses, including through exchange of information, mutual legal assistance and safe returns.

(c) Recognize the need for a foreign workforce and develop safe migration pathways for semi-skilled and unskilled workers by entering into bilateral agreements with countries of origin and ensuring that unscrupulous recruitment agencies do not take undue advantage of migrant workers in search of a livelihood.

(d) The contribution of, and collaboration with civil society organizations, are crucial in the fight against human trafficking. In this regard, immediate steps

should be taken to establish the necessary framework to enable civil society organizations to provide assistance, including shelter and counselling services to victims.



General Assembly

Distr.: General
5 June 2014

English only

Human Rights Council

Twenty-sixth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

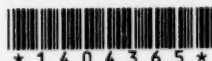
Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, following the visit to Seychelles (27-31 January 2014)

Addendum

**Mission to Seychelles: comments by the Government on the report of
the Special Rapporteur***

* Reproduced as received

GE.14-04365 (E)



* 1 4 0 4 3 6 5 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, following the visit to Seychelles (27-31 January 2014)

1. The following are the comments and proposed amendments to the report of Special Rapporteur on Trafficking in Persons, by the Ministry of Foreign.
2. The Statement on Page 7, point 3, indicating that "In February 2013, as a result of increased complaints from Malagasy domestic workers regarding their treatment in the Seychelles, Madagascar instituted a ban on sending additional Malagasy citizens to the Seychelles for such work."
3. The Embassy of Madagascar in Mauritius, as well as the Seychelles Honorary Consul based in Madagascar have both confirmed that, as a result of violence perpetrated against Malagasy workers in Lebanon and the Gulf Region in general, the Malagasy authorities have made a decision to suspend the recruitment of Malagasy workers in Middle Eastern countries. This matter does not concern the Seychelles in anyway.
4. The Head of Migration Services at the Ministry of Labour in Madagascar, who manages all the contracts of outgoing Malagasy workers, through our Honorary Consul in Madagascar, has further confirmed the same, and has stated that there has been only positive feedback of Malagasy workers who have been or are currently based in the Seychelles. Therefore, reiterating that there has been no reason to deny Seychelles of such human resources from Madagascar. The following persons have been direct sources of the aforementioned information regarding the case of the Malagasy workers:
 - Mr. Richard VIA, Chargé d'Affaires for Madagascar, Embassy of Madagascar in Mauritius.
 - Mr. Sylvain DE COMARMOND, Honorary Consul General of Seychelles in Madagascar.
 - Madame Aurette Marguerite RAZANAZAFY, Head of Migration Services at the Ministry of Labour in Madagascar

Please kindly refer to the official Note Verbale N°: 057 / 14 / SDC as an annex by the Ministry of Foreign Affairs in Madagascar, confirming the above information.

5. The following are the recommended amendments to information regarding the Department of Social Affairs at the Ministry of Social Affairs, Community Development and Sport :

Proposal for Amendments to the Report of the Special Rapporteur on Trafficking in Persons submitted by the Department of Social Affairs.

Page 10

- **Paragraph 30:** While not directly working on anti-trafficking issues, the Department of Social Affairs under the Ministry of Social Affairs, Community Development and Sports aims inter alia, to restore social functioning and alleviate social problems by safeguarding the interest and promoting the well-being of children as well as integrating and protecting marginalized and vulnerable groups. Social workers of the Community Social Work Section deal with cases of domestic violence, substance abuse, mental health, placement, anti-social behaviour, teenage pregnancy and neglect. Cases are identified through their regular visits to schools, health centers and police stations as well as the Department's 24 hour Children's

helpline. Cases are identified through their regular visits to schools, health centres and police stations as well as the Department's 24 hour Children's helpline. The majority of the cases are also identified through clients who walk in at headquarters or at the district administration Offices where the community social workers are based.

Page 11

- **Paragraph 31:** A shelter for orphans and a child in need up to the age of eighteen, namely The Presidents Village, is run under the patronage of the First Lady. Three other homes for children are run by the Catholic Church.

Page 12

- **Paragraph 39:** Identification of victims is further exacerbated by the lack of clear legal distinction between prostitution and internal trafficking for sexual purposes. In this regard, social workers of the Department of Social Affairs related cases whereby some Seychellois men force their girlfriends into prostitution in order to earn money for the couple's drug addiction. The Department also identified 580 sexual related abuses committed on children from 2009 to 2013. Unfortunately, neither these cases nor other similar ones have been correctly identified as trafficking in persons for the purpose of sexual exploitation.

Page 13

- **Paragraph 43:** At the time of the Special Rapporteur's visit, there were no shelters and psycho-social support specifically intended for victims of trafficking. However, the Social Affairs Department runs homes which provide welfare assistance to children in need and in other difficult living situations up to 18 years, who are subject to protection measures and assist with their reintegration into the society. It also runs a children's telephone hotline for victims of violence.
- **Paragraph 44:** The Special Rapporteur the President's village shelter managed by the Department of Social Affairs which had 54 children up to the age of 18 years, including infants. The centre provides a family environment to orphans and children whose parents are faced with socio-economic difficulties. This includes educational and vocational support, medical and psychosocial services to children. The Special Rapporteur notes the overall adequate standard of the facility and services provided.

Page 15

- **Paragraph 56:** In addition, the potential of key institutions such as the Ministries of Tourism; Employment; Social Affairs; Health; law enforcement authorities

6. The Ministry of Labour and Human Resource Development have made the following proposals for amendments to the report :

Response on report of the Special Rapporteur on trafficking in persons, especially women and children, Dr. Joy Ngozi Ezeilo – Mission to Seychelles from 27 to 31 January 2014 submitted by the Ministry of Labour and Human Resource Development

Page 6

Paragraph 13:

- “A significant portion of migrants work within the Seychelles International Trade Zone where adherence to all national labour and immigration laws is not required. This renders workers more vulnerable to possible situations of forced labour”

Comments from the Ministry of Labour and Human Resource Development:

- The Employment Act 1995 is not applicable to the Seychelles International Trade Zone (SITZ) however the International Trade Zone (Employment) Regulations 1997 and the International Trade Zone (Conditions of Employment) Order 1997, are applicable and do not make the workers any more vulnerable to situations of forced labour than workers who work outside of the SITZ. In addition, forced or obligatory labour is prohibited in Article 17 of the Constitution and in Section 251 of the Penal Code which are both applicable to workers outside of and within the Seychelles International Trade Zone.

Page 6:

Paragraph 13:

- “According to official statistics, the vast majority of the migrant workers, which constitutes about 1/5 of the population of the country, are employed in the fishing and construction sectors, comprising nearly one-third of the total workforce.”

Comments from the Ministry of Labour and Human Resource Development:

- The highest numbers of foreign workers are employed in the Manufacturing and Construction industries instead of fishing.

Page 6:

Paragraph 14:

- “Over the past two years, a number of public demonstrations held by groups of migrant workers to peacefully protest about their working conditions resulted in their deportation”

Comments from the Ministry of Labour and Human Resource Development:

- The groups of migrant workers being referred to above left the country voluntarily as a consequence of the breach of their working conditions by their respective employers, after payment of their dues and claims of airfare tickets was ordered and enforced by the Employment Tribunal.

Pages 8–9:

Paragraph 22

- “Minimum labour protection standards, including working hours, paid leave and regular payment of wages are set out in the Employment Act, which governs the relationship between workers and their employers. With regards to migrant workers, the Employment Act extends its scope to Non-Seychellois workers and contains provisions that prohibit labour exploitation. However, this and other national laws such as immigration laws do not apply to migrant workers within the Seychelles International Trade Zone as well as migrant domestic workers which may be victims of trafficking”.

Comments from the Ministry of Labour and Human Resource Development:

- The Employment Act 1995 does not apply to migrant workers within the Seychelles International Trade Zone, but the International Trade Zone (Employment) Regulations 1997 and the International Trade Zone (Conditions of Employment) Order 1997 are applicable. Working hours, paid leave and regular payment of wages, which are minimum labour protection standards regulated in the Employment Act, are also regulated in these two pieces of legislation, which also extend their scope to Non-Seychellois workers (Regulation 41 of the Trade Zone (Employment) Regulations 1997). It can be noted that the process of recruitment of migrant workers within the Seychelles International Trade Zone is also overseen in the above pieces of legislation and the compulsory attestation of contracts reduces the risks of trafficking.

Page 7:**Paragraph 15 & 16**

- "A case in point involves nine Pakistani fishermen allegedly abandoned in a port in Victoria for nine months."
- "A case in point involves a Mauritian victim of domestic servitude identified by a health worker who realised that her passport was withheld by her employer and that she had not received payment for her work."

Comments from the Ministry of Labour and Human Resource Development:

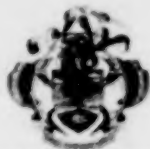
- The Industrial Relations section does not have records of the two cases cited.

Page 12:**Paragraph 38**

- "Additionally, in spite of the increasing number of foreigners engaged in domestic work, and allegation of abuses, victims of trafficking for domestic servitude have not been identified because of the hidden nature of their work, the fact that they fall outside the purview of the Labour law and that labour inspections are not conducted in private homes."

Comments from the Ministry of Labour and Human Resource Development:

- The Employment Act 1995 does apply to migrant domestic workers who therefore benefit of the same minimum labour protection standards as other workers. Hence they do not fall outside the purview of the labour law.



**Consulat Général
des Seychelles**

N° : 057 / 14 / SDC

Le Consulat Général des Seychelles présente ses compliments au **Ministère des Affaires Étrangères de la République de Madagascar** et a l'honneur de lui exposer ce qui suit.

Les Seychelles font actuellement l'objet d'une entreprise de désinformation, par ignorance ou par malice, en ce qui concerne le sort des ouvriers malgaches employés par des sociétés seychelloises.

Ainsi, dans son dernier rapport sur le trafic d'êtres humains, le Département d'État américain affirme que les Seychelles ont été classées, par Madagascar, comme « pays à haut risque » et donc comme l'un des pays concernés par le décret N° 2013-594 du 6 août 2013 portant suspension de l'envoi de travailleurs migrants malgaches dans les pays à haut risque. Ces informations erronées risquent malheureusement d'être reprises par le rapporteur des Nations Unies sur le trafic d'êtres humains et ainsi de souiller durablement la bonne réputation des Seychelles.

Afin de contrer ces allégations et d'éviter que la réputation des Seychelles ne soit ternie, sans aucune raison valable, le Consulat Général des Seychelles prie le Ministère des Affaires Étrangères de bien vouloir lui faire savoir, officiellement, si son pays se trouve ou non dans cette liste de « pays à risques » et si l'envoi de travailleur malgaches aux Seychelles est autorisé ou non.

Le Consulat Général des Seychelles remercie par avance le **Ministère des Affaires Étrangères de la République de Madagascar** de son aimable collaboration et saisit cette occasion pour lui renouveler les assurances de sa très haute considération.



ANTANANARIVO, LE 16 MAI 2014

**MINISTÈRE DES AFFAIRES ÉTRANGÈRES
DE LA RÉPUBLIQUE DE MADAGASCAR**
Anosy

ANTANANARIVO

NOTE VERBALE



General Assembly

Distr.: General
28 May 2014

English only

Human Rights Council

Twenty-sixth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

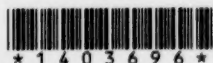
Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, following the visit to Italy (12-20 September 2013)

Addendum

Mission to Italy: comments by the Government on the report of the
Special Rapporteur*

* Reproduced as received.

GE.14-03696



* 1 4 0 3 6 9 6 *

Please recycle A small recycling symbol consisting of three chasing arrows forming a triangle.



Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, following the visit to Italy (12-20 September 2013)

1. Following to the request of the Special Rapporteur on trafficking in persons, especially women and children, Italian Authorities are in a position to provide the following comments to be considered as a comprehensive addendum of the Report of the Special Rapporteur.
 2. In regard to the reference concerning the reception of the provision of the European Convention on Human Rights, please introduce the correct reference to Italy legal position as a 'Council of Europe Member State and Contracting Party of the ECHR (see paragraph 23 of the Report).
 3. Moreover, beside the fact that, at the time of the visit of the Special Rapporteur, the absence of a national plan of action to combat human trafficking was recorded, the insertion of a reference to the current drafting process is fundamental, as provided for in Legislative Decree No. 24/2014, transposing directive 2011/36/EU, which established inter alia that the two kinds of victims' assistance programmes (Article 13 and Article 18 projects) will be integrated into one single assistance and social integration programme (see paragraphs 44 and 45 of the Report).
-



General Assembly

Distr.: General
11 June 2014

English only

Human Rights Council

Twenty-sixth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

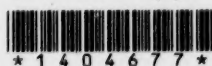
Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo

Addendum

Mission to Bahamas: comments by the government to the Unedited
report of the Special Rapporteur*

* Reproduced as received

GE.14-04677 (E)



* 1 4 0 4 6 7 7 *

Please recycle



Report on Trafficking in Persons of the UN Special Rapporteur, Ms. Joy Ngozi Ezeilo

1. The Government of The Bahamas is pleased to provide comments to the report prepared on the visit to The Bahamas, from December 9-11, 2013, of Ms. Joy Ngozi Ezeilo, Special Rapporteur on Trafficking in Persons, Especially Women and Children, United Nations Office of the High Commissioner for Human Rights. The purpose of the visit was to examine the situation of human trafficking and to engage with representatives of the Government and civil society organizations, to discuss achievements and challenges in combating and preventing trafficking in persons.
2. The comments to the Report relate to inaccuracies in fact or law that should be carefully considered prior to its submission for editing in accordance with the United Nations documentation requirements.
3. The Government would wish to have its comments circulated as an addendum to the report; however, the comments at paragraphs highlighted below can be incorporated into the report:

I. Introduction

Paragraph 2:

4. **Line1:** The word 'Free-port' is spelt 'Freeport'.
5. **Line 6:** The word 'Inter-ministerial' should be 'Inter-Ministry'.
6. **Lines 6 – 8 should read:** She further held meetings with the Inter-Ministry Committee on Trafficking in Persons, the coordinating body for policy matters relating to trafficking in persons and the National Trafficking in Persons Task Force, the operational body for providing assistance to victims and ensuring coordination between Government agencies and NGOs on trafficking in person's matters.

II. Main findings

A. Forms and manifestations of trafficking in persons

Paragraph 4

7. **Line 4:** Capitalize the letter 'T' preceding 'Bahamas'. Wherever the word 'the' is used before 'Bahamas' the letter 't' is to be capitalized.
8. Change the word 'are' to 'is'.
9. Line 4 should read: The Bahamas is
10. It is accepted that the geography of The Bahamas makes the country a major route for illegal migration, and places it in a position to be used as a transit and destination point for the trafficking of men, women, and children subjected to forced labour and sex trafficking. However, over the past two years, The Bahamas has made significant efforts to bring itself in compliance with acceptable standards as exhibited by the United States 2013 Annual Trafficking in Persons Report in which The Bahamas was elevated from a Tier 2 Watch List to Tier 2.

11. With respect to the women from the Dominican Republic, who were interviewed by the Special Rapporteur, the report on the matter from the Immigration Department indicated that a joint operation was carried out by law enforcement (Immigration and Police) on a house in Grand Bahama where Dominicans were found. There was, however, no evidence that law enforcement found these persons abandoned and blind folded in the house a few days after arrival. The persons were also in possession of their passports and personal belongings. The report indicated the matter to be smuggling and not trafficking in persons.

Paragraph 5

12. Until recent times, the Government's focus was not on trafficking in persons, as major attention had to be given to the age old, immense problem of human smuggling. The thousands of migrants, who are smuggled into The Bahamas regularly from Haiti, make it almost impractical for the authorities to properly identify persons who may be trafficked among smuggled persons. The first line officers receive training in the identification of victims of trafficking; and, there are protocols in place to assist with identification.

13. The form of trafficking in persons identified in The Bahamas is for sexual and labour exploitation. Migrant workers are especially vulnerable to being trafficked, particularly among the Haitian population who arrive in The Bahamas, largely voluntarily, to work as domestic employees, labourers, and in agriculture. The other large, vulnerable migrant worker communities are from China, Jamaica and the Philippines. The groups especially vulnerable to sex trafficking in The Bahamas include foreign persons, many of whom are involved in prostitution or exotic dancing, and women.

14. Over the past two years, a number of separate incidences was investigated during operations conducted by law enforcement officers from the Department of immigration and the Royal Bahamas Police Force, at different times. Of the many persons who were interviewed, it was determined that there was no evidence that they were victims of sex or labour trafficking or any other form of trafficking. There were no suspected traffickers. They were all illegal migrants.

Paragraph 6

15. The situation described in this paragraph typifies the literature on what can happen in a trafficking in persons situation. The Bahamas takes a victim-centred approach in dealing with trafficking in persons, as is promoted by the international organizations, which is focussed on the protection of the victim, regardless of nationality.

16. It is recognized by the Bahamian authorities that persons trafficked may not want to reach out to them due to their perceived status as illegal migrants; however, potential trafficked persons in The Bahamas are viewed as victims of crime rather than as criminals. This is seen as an important step in uncovering the trafficking networks and bringing the perpetrators to justice. The provision is also in place for victims to be

17. given temporary residency status that will enable them to obtain employment.

18. The rescued victims from Jamaica, interviewed by the Special Rapporteur, were trafficked by Jamaicans concerned with Bahamians, who recruited them from their communities of origin in Jamaica.

19. As indicated at paragraph 5 above, the smuggling of Haitians into The Bahamas is an age old problem. They enter the country by boat, and through their employment situations, may become vulnerable to labour trafficking. Dominicans are included in a new trend of migrants that are being smuggled into the country and are vulnerable to situations of trafficking in persons. They arrive in the Bahamas mainly by air.

Paragraph 7

20. **Line 12:** Change the word 'drawn' to 'drown'.

21. The terms of the visit of the Special Rapporteur to The Bahamas was to examine the situation of trafficking in persons from a human rights approach. At paragraph 5 of the report, it is indicated that in The Bahamas there is little understanding of the difference between trafficking in persons and migrant smuggling. This paragraph (para. 7) however, details what happens during human smuggling operations rather than trafficking in persons.

22. Additionally, although some of the thousands of Haitians who are smuggled into The Bahamas on over-crowded, unseaworthy vessels may be lured to come; based upon interviews with these persons, the vast majority of them arrive of their own volition, as they believe that they can find a better life economically in The Bahamas. Upon arrival, they are very quickly immersed into the legal and illegal Haitian communities, which are strong. It becomes a revolving door, since as soon as these migrants are repatriated to their country, they return at the earliest opportunity; and no amount of persuasion by the local authorities can dissuade them from making the risky voyage.

Paragraph 8

23. This paragraph is contradictory as it states both that "the absence of available data makes it hard to assess the phenomenon of domestic servitude in the country"; and, "undocumented migrants from Haiti are known to constitute the largest share of domestic workers.....".

24. It will be noted that statistics provided by the Department of Immigration do not support the assertion that on the Island of Grand Bahama, persons of Haitian origin largely outnumber the Bahamian nationals.

25. This paragraph makes reference to "stateless Bahamian of Haitian decent". It is to be noted that there are no "stateless" Bahamians. Persons of Haitian decent born in The Bahamas with neither parents as citizens, adopt the nationality of their parents and can obtain Haitian passports.

Paragraph 9

26. The 2001 National Employment Act does provide for the protection of domestic workers; however, the Act does not provide for overtime compensation for those domestic workers that are live-in-housekeepers. All other basic benefits such as, severance, vacation and notice payments are covered under the Act.

Paragraph 10

27. The case indicated by the Ministry of Social Services and Community Development of the minor Haitian child was investigated by the police and, in consultation with prosecutors in the Specialized Trafficking in Persons Unit in the Office of the Attorney General and Ministry of Legal Affairs, was determined not to be a Trafficking in Persons case.

28. With respect to the discussions held by the Special Rapporteur with civil society interlocutors, it is to be noted that there were no government officials present. It is also to be noted that the Government has neither evidence nor report to identify child sex tourism as a problem in The Bahamas.

Paragraph 11

29. Bahamian nationals are willing to engage in domestic jobs, but are seldom willing to be engaged as domestic live-in workers.

B. Legal, policy and institutional frameworks for combating trafficking in persons

1. Legal Framework

International and Regional Framework

Paragraph 12

30. The Government is currently reviewing the "International Convention on the Protection of all Migrant Workers and Members of their Families as well as the Domestic Workers Convention (ILO 189)".

Paragraph 13

31. The Government of The Bahamas does have established protocols for dealing with asylum seekers and refugees. The Unit within the Department of Immigration with specific responsibility for these categories of migrants works closely with the Office of the Attorney General and Ministry of Legal Affairs on matters that require judicial remedies.

32. The Constitution of the Commonwealth of The Bahamas provides for persons of foreign parents born in The Bahamas, including undocumented Haitian migrants, to apply for citizenship when they reach the age of 18 years. With respect to children born of undocumented Haitian migrants, they are not at risk for statelessness as they adopt the nationality of their parents and can obtain Haitian passports.

National Framework

Paragraph 20

33. **Line 2:** The 2001 Employment Act does not set 'limitation of working hours'; however, where an employee works in excess of the Standard hours of work (Section 8 (1) of the Employment Act) they are to be compensated overtime in accordance with the Act. As it relates to 'inspectors not being able to inspect homes', this is the International Standard and is not unique to The Bahamas.

Immigration Policy

Paragraph 22

34. At the time of the UN Special Rapporteur's visit, the Detention Centre had a capacity to hold 200 detainees and had a total of 133. There were three (3) dormitories with two additional dormitories in the final stage of construction. Each dormitory had a capacity to hold 70 persons with a sanitary room containing facilities for use by four (4) detainees at a time.

35. Additionally, at the time of the Special Rapporteur's visit, the Government was in the process of a repatriation exercise, therefore, all of the migrants earmarked for repatriation had been processed and temporarily detained for two to three (2-3) hours in a specific dormitory awaiting removal for repatriation.

Paragraph 23

36. **Line 5:** The statistics provided by the Department of Immigration does not indicate that the majority of persons entering The Bahamas are Haitian children under the age of 18.

Paragraph 25

37. As indicated at paragraph 4, the report from the Immigration Department indicated that a joint operation was carried out by law enforcement (Immigration and the Police) on a house in Grand Bahama where Dominicans were found; however, there is no evidence that law enforcement found them abandoned and blind folded in the house.

Institutional Framework

Paragraph 31

38. **Lines 7–11:** It is comprised of senior Government officials from the Ministries of National Security, Labour and National Insurance, Social Services and Community Development and Health

Paragraph 32

39. **Lines 4–9:** Similar to the TIP Committee Labour and National Insurance, Social Services and Community Development.....

C. Identification of trafficked persons

40. The information provided by the Department of Immigration in The Bahamas does not support the statistics from the IOM that a large majority of persons smuggled into The Bahamas are minors.

Paragraph 41

41. There is no evidence that action was taken by the Special Rapporteur during her visit to ascertain the veracity of the allegations referred to as “alarming alleged practices”.

42. At the time of the visit of the Special Rapporteur, no government official had been investigated, prosecuted and/or convicted for involvement in migrant smuggling operations.

Paragraph 42

43. The suggestion in this paragraph that social workers should be on “immigration raids and marine border control operations”, appear not to take account of how governments operate. In The Bahamas, Social Workers are not permitted to participate in matters such as raids or marine border control operations involving national security. Unless there are changes, law enforcement officers will continue to be first line workers in these situations in identifying trafficking victims.

Paragraph 44

44. **Lines 1–3:** The Trafficking in Persons Investigation Section and not the Victim Care Unit of Central Detective Unit is mandated to provide assistance for the immediate removal of victims from the environment of exploitation and transfer them to a safe location.

Paragraph 45

45. **Lines 1–2:** In accordance with the TIPA Section 20 (1), the Minister responsible for National Security in conjunction with the Minister responsible for Social Services shall develop a plan in consultation with non-governmental organizations and other representatives of civil society for the provision of appropriate services from governmental and non-governmental sources for victims of trafficking and dependent children accompanying the victims.

Paragraph 46

46. At the time of the visit of the Special Rapporteur, the victims were housed in long-term housing facilities provided by the Government of The Bahamas pursuant to the TIPA Section 12 (2) and the Plan to Provide Assistance to Victims of Trafficking in Persons and their Dependent Children (Trafficking in Persons Assistance Plan. The NGOs mentioned such as the Links Safe House are only used to provide short-term shelter for potential victims. As the shelter provided by the Links Safe House includes families with children, their policy is to assist with safe housing for victims of labour trafficking and not sex trafficking.

47. There was no attempt by the Special Rapporteur to visit safe houses other than the one visited, and this was due primarily to time constraints.

Paragraph 47

48. The dedicated housing provided by the Government of The Bahamas for victims of trafficking in persons is not based on an ad hoc system, but is provided as outlined in the Government's Trafficking in Persons Assistance Plan document. It is to be noted that the Links Safe House provides 24 hour supervision at its facility; and, that victims of trafficking in persons receive counselling from the Government run Sandilands Rehabilitation Centre and the Crisis Centre.

49. The Government of The Bahamas provided two of the victims of trafficking in persons with Refugee Certificates that enable them to seek legal employment while in a temporary residency status. If it is determined that victims would be resident in The Bahamas for a longer period of time, then they will be issued with a Work Permit, without charge, which is renewable annually.

50. All of the necessities of the trafficking in persons victims are provided for by the Government of The Bahamas.

Paragraph 48

51. The Department of Social Services assisted three Jamaican females, who were trafficked, and two Dominicans who were potential victims but were not determined to be victims of trafficking.

52. The IOM provided support in repatriating two victims.

Paragraph 49

53. The temporary residency permit provided for in the TIPA is not contingent on victims cooperation in judicial proceedings.

Paragraph 51

54. The Royal Bahamas Police Force is responsible for investigating TIP cases. There is an established unit at the Central Detective Unit to investigate these types of cases.

There is a Sexual Offences Unit at Central Detective Unit that is responsible for investigation cases of sexual assault. However, the officers assigned to TIP cases are experienced in the investigation of sexual crimes and other major crimes.

Paragraph 54

55. **Line 1:** The offences of trafficking are triable before the Supreme Court and the Magistrates Court.

56. **Lines 3-4:** Prosecutors in the Office of the Attorney General Ministry of Legal Affairs who specialize in the prosecution of sexual offence cases are also involved in the prosecution of trafficking related cases.

Paragraph 56

57. **Lines 5-6:** In the case that was prosecuted in the Supreme Court, the two victims were made to prostitute themselves. In the case that is being prosecuted in the Magistrates Court, the victim was made to dance in a night club and prostitute herself.

Paragraph 61

58. **Lines 1-2:** The Government informed that at the time of the visit of the Special Rapporteur, two of the three victims were in The Bahamas. The other was repatriated to the country of origin with the help of the IOM.

Paragraph 63

59. The paragraph should be restated as follows:

60. Although there is no institutionalized compensation scheme, the Government informed that the two Dominican males, who were not identified as victims of trafficking in persons, were assisted in their return to their home country and provided with a small stipend from funds earmarked for victims of Trafficking in Persons before their repatriation. There were no cases of labour exploitation in The Bahamas.

H. Prevention

Public Awareness

Paragraph 65

61. **Lines 1-3:** The Trafficking in Persons Inter-Ministry Committee and National Task Force have responsibility for the coordination and implementation of the activities aimed at preventing trafficking in persons.

I. Cooperation and Partnership

Capacity Building

Paragraph 75

62. **Line 1:** The words 'has conducted' should be changed to 'is conducting'.

Paragraph 77

63. **Line 3:** sponsored a Study Tour for them in Miami, Florida.



General Assembly

Distr.: General
11 June 2014

English only

Human Rights Council

Twenty-sixth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo

Addendum

Mission to Belize: comments by the government to the report of the
Special Rapporteur*

* Reproduced as received.

GE.14-04700 (E)



* 1 4 0 4 7 0 0 *

Please recycle A small recycling symbol consisting of three chasing arrows forming a triangle.



Report of the Special Rapporteur on trafficking in persons, especially women and children

1. The following are the comments and clarification of the Government of Belize on the advanced draft of the report of the Special Rapporteur on Trafficking in Persons, Joy Ngozi Ezeilo regarding her mission to Belize which occurred December 12 to 16th, 2013.

Paragraph 6:

2. While "fichera" is more common among females of Hispanic descent, the commercial sexual exploitation of children is not limited to one ethnic group.

Paragraph 10:

3. The Special Rapporteur was provided with information on the number of arrests made, interviews conducted, cases prosecuted and the disposition of the prosecuted cases for the period 2010-2012 in an email of 16 December 2014. The information was transmitted by email as this was the agreed mode of communication regarding supporting documentation following the mission.

Paragraph 27:

4. Within the Belizean context national plans of action are not submitted to Parliament, but rather to Cabinet (the Executive). It is then the prerogative of the Executive whether the plans will be submitted to Parliament. The fact that since 2006 there has been a specific allocation in the national budget for human trafficking, which is separate and apart from allocations in the budgets of line Ministries which are used for this purpose underscores that the lack of Parliamentary approval does not endanger budgetary allocations for the Plan.

Paragraph 30:

5. The Anti-trafficking in Persons Taskforce was not established by the 2003 Act, but rather by executive sanction.

Paragraph 35:

6. There is a national referral system and it is outlined in the Standard Operating Procedures a copy of which was provided to the Special Rapporteur. Pages 15 and 16 of that document states:

- "The general public, all non-governmental organizations, governmental departments and agencies, educational institutions, and the media must be sensitized about trafficking in persons. They can all be excellent sources and resources for intelligence gathering, but importantly, they are front-line agencies which can be the eyes and ears of the Anti-Trafficking in Persons Council. They must know that if any of them encounters a situation that seems to have elements of trafficking, they can contact the nearest Police or the Human Services Departments. For this purpose, the Police Department and the Human Services Department shall each appoint a district focal point. The names of these officers and their contact information shall be informed to all district officers. All district officers must be informed that whenever a case that appears to have trafficking elements comes before them, they must immediately refer same to their district focal points. The district focal points shall, in turn, immediately refer any suspected case of trafficking in persons

to the National focal point, who, for the purposes of the present Operating Procedures, shall be the Head of the National Crimes Investigation Branch ("Head CIB"). "

7. This is repeated in public service announcements as the general public is asked to contact either the Police or Department of Human Services in their area to report suspected cases. This message is likewise transmitted in community information sessions delivered by Youth Enhancement Services, one of the NGO members of the ATIP Council. NGOs working on related issues are involved in the victim identification and do make referrals to both the Police and Department of Human Services as underscored by the case study presented in Paragraph 38.

Paragraph 38:

8. Based on the information shared by the Special Rapporteur at the debriefing meeting at the end of her mission, both 17 year old girls were removed from the prison and repatriated. The protocols between Immigration Department, the Department of Human Services and the Belize Central Prison for the transmission of information on unaccompanied minors were reviewed and strengthened. The placement of these children in the prison for immigration violations was contrary to existing protocols. In 2013 for instance the Department of Human Services provided protective services for 28 unaccompanied minors referred by the Immigration Department. This breach has been documented.

Paragraph 39:

9. The Standard Operating Procedures have been developed for all government stakeholders involved in human trafficking matters so the above identification and referral protocols apply to the Immigration Department. In 2012 the ATIP Council completed the training of 100% of immigration and labour officers in their roles and responsibilities in the identification and referral of suspected human trafficking victims. Another round of training on the new law and a refresher on roles and responsibilities will commence in August 2014.

10. Regarding the presence of social workers during screening of victims, social workers always collaborate with Police on rescue operations as these are planned by the Operations Subcommittee, which is chaired by Human Services. These rescue operations usually includes multiple interviews being conducted by a number of police officers and Social workers are there interviews. The screening and interviews with persons who are referred otherwise is done by one police officer, as has been acknowledged by this Report. Social Workers are always present at these interviews.

11. A distinction needs to be made between rescue operations conducted by the ATIPS and other operations conducted by immigration and labour. Indeed social workers are not present on those operations hence the reason labour and immigration officers have been trained on identification of potential victims and the referral process as outlined in the SOP.

Paragraph 43:

12. The assistance to victims provided is NOT conditional. It is the overall policy of the Ministry of Human Development to provide protection services to all victims of violence, irrespective of their immigration status and nationality. In the case of human trafficking victims, it is also a legal responsibility. Services are provided to both victims and suspected victims. Suspected victims are placed in care until, a determination of their case is made and provided with the same services, including special immigration permits .

13. It is unclear how the conclusion that individual assessment and case management is not occurring has been drawn. There is case management for victims and treatment plans are developed according to their individualised needs. Case management and treatment planning is the core of the work done by the Department of Human Services for all victims of violence, not only human trafficking victims.

Paragraph 44:

14. Clarification is sought on what evidence is being used to characterise the victim assistance system as "extremely ad-hoc and weak." There is case management for victims and treatment plans are developed according to their individualised needs. The system does not conform to those in other countries but it is what is realistic within the Belizean context. The small number of victims does not make one stop shelters staffed with medical professionals, psychologists, lawyers and the like feasible. Also, as noted in paragraph 45, having one centralised shelter poses risks for victims in a small country with a population of less than half a million people. Housing for adult victims is provided in a number of ways according to the risk level and needs of the victim, including shelters, rented houses for independent or semi-independent living for adult victims, placements with families. Children are cared for within the framework of the child abuse protection system and placed within the substitute care system.

15. The 2013 US State Department Global Trafficking in Persons Report states:

- "The Belizean government sustained its efforts to protect trafficking victims during the reporting period."
- "The government provided victim care and assistance through placements in safe houses including shelters in the Cayo and Belize districts, or with families around the country. There were no reports that victims were detained involuntarily in these shelters. The government placed child victims in foster care or with relatives." (p.95)

16. The fact that since 2008, 16 victims, who represent the majority of victims, remain in care for an average of 2 years is a demonstration that there is a level of care within the victim assistance system. Victims have the option of being repatriated, they are aware of this option and some have chosen this option. There are some who chose to remain in the country even after their case is completed and they are assisted in making the transition. There are 3 Nepali and 2 Indian nationals, who have been assisted in making this transition and are now working on their citizenship.

Paragraph 44:

17. There is only one civil society organisation that provides adult victim services and the government collaborates with that organisation as the Report notes in paragraph 46. There is collaboration with civil society organisations that manage care facilities for child victims of violence. Civil society organisations just do not have sufficient capacity to establish shelters. The history of residential care facilities for children and domestic violence shelters managed by civil society is that despite assistance from the Government they still struggle. They would need to be fully funded by government to survive. Given the need to provide a range of placement/housing options for victims due to the issues already raised, Government would be hard pressed to fund shelters at the levels that would be required by civil society.

Paragraph 46:

18. The agreement between Help for Progress and Government of Belize when human trafficking victims are placed includes resources being provided for the recurrent costs of

running the shelter which is separate and apart from the stipends provided to the adult victims themselves. These victims are also assigned a social worker who provides case management

Paragraphs 50 and 51:

19. The following points of clarification are made with regards to the case study discussed in these two paragraphs:

- (a) Counselling services were provided for this victim at the institution where she was initially placed and later in the foster home when it was clear that she still continued to struggle to deal with the traumatic effects of her experience. It has been difficult to provide this victim with these services because after giving her initial statement to the Police, she has not wanted to speak of her experience to anyone, except her foster mother who has been instrumental in getting her to accept these services. The fact that she was willing to speak to the Special Rapporteur is actually seen as a very positive sign of the progress she has made and she was encouraged to do so as a part of her psychological rehabilitation.
- (b) Regarding the matter of her expressing having suicidal thoughts two years after being rescued, rehabilitation from traumatic events is a very individual experience and cannot be time lined. The healing process and the time the process takes for each individual is different irrespective of the quality of psychological care received.
- (c) There are no formal English as a second language classes available, except at University level. The hiring of a private tutor to provide language classes to the victim is the only viable option to assist her with language acquisition.
- (d) The victim was fearful of leaving the confines of her foster family's home to attend any sort of training, language issues notwithstanding.
- (e) The victim was removed from the institution and placed in foster care because based on her assessment, it was determined that such a placement would better meet her needs as she was extremely fearful, distrusting and not adjusting well to the institution. Although the foster family was not trained in specifically caring for human trafficking victims, they were chosen because of their record of success with traumatised and special needs children.
- (f) Regarding the efforts to acquire a passport for the victim. Two formal, written requests have been made, but there has been a series of communications with the consulate of the country to follow up.

Paragraph 68:

20. The ATIP Council has an on going national, multilingual, (English, Spanish, Hindi, and Mandarin), multimedia public information and education campaign on human trafficking that includes radio and TV public service announcements. There are also anti trafficking posters at all border points and billboards nationally whose maintenance are paid for by the ATIPS Council. Please also note that the efforts of the Special Envoy are conducted in collaboration with the ATIPS Council and the Belize Tourism Board is a part of the ATIPS Council so its public awareness efforts occur within the rubric of the Council's plan. The posters produced by IOM were not widely distributed at the time of the mission as they were developed in the middle of 2013 and were therefore earmarked to be used on continuing public awareness work of the Council in 2014.

Paragraphs 55 and 56:

21. The ATIPS Committee, now Council has been working with embassies and consulates on the repatriation of victims, suspected victims of trafficking and unaccompanied minors even prior to the 2013 legislation to ensure the repatriation of persons. Since 2008 77 persons have been repatriated through the cooperation of embassies, consulates and other government officials in countries of origin. This number includes 60 Nepali nationals that were a part of a case of labour exploitation by a Chinese company. Five persons involved in the case opted to remain in Belize and assist with the prosecution of the case.

22. In view of the above comments, it is respectfully recommended that the related recommendations be reviewed.
